

may include provisions for a wide variety of issues relating to the application of state law to the operation of gaming activities by the tribe.⁵⁹

By its terms, the Indian Gaming Regulatory Act of 1988 prohibits gaming on any lands acquired in trust for the benefit of an Indian tribe after Oct. 17, 1988, unless the tribe's request to conduct such gaming falls under one of several enumerated exceptions. For example, IGRA's prohibition does not apply to on-reservation gaming – that is, where the land on which the contemplated gaming activity is “within or contiguous to the boundaries of the reservation of the Indian tribe on October 17, 1988.”⁶⁰ There are also certain provisions in IGRA for gaming by tribes without a reservation or tribes that had obtained land through settlement of a land claim as of 1988. Some of the largest Indian-operated casinos in the U.S. were approved under these exceptions.

With respect to off-reservation gaming, Section 20(b)(1)(A) of the statute states that this prohibition against gaming will not apply if:

The Secretary, after consultation with the Indian tribe and appropriate State, and local officials, including officials of other nearby Indian tribes, determines that a gaming establishment on newly acquired lands would be in the best interest of the Indian tribe and its members, and would not be detrimental to the surrounding community, but only if the Governor of the State in which the gaming activity is to be conducted concurs in the Secretary's determination.⁶¹

⁵⁹25 U.S.C. § 2710(d)(3)(C) (1995). Such tribal-state compacts are also subject to approval by the Secretary of the Interior. 25 U.S.C. § 2710(d)(3)(B) (1995).

⁶⁰25 U.S.C. § 2719(a)(1) (1995). An "Indian reservation" is generally defined as "that area of land over which the tribe is recognized by the United States as having governmental jurisdiction" or, in some cases, the land constituting a former reservation of a tribe. 25 C.F.R. § 151.2(f) (1980).

⁶¹25 U.S.C. § 2719(b)(1) (1995).